



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590



FEB 01 2013

**INFORMATION REQUEST**

**URGENT LEGAL MATTER**

**PROMPT REPLY NECESSARY**

**UPS LETTER: DELIVERY CONFIRMATION REQUESTED**

REPLY TO THE ATTENTION OF:

SR-6J

Mr. Winston E. Calvert  
Armstrong Teasdale LLP  
7700 Forsyth Boulevard, Suite 1800  
St. Louis, Missouri 63105  
Representing: Totall Metals Recycling Inc. (Totall)

Re: Follow-Up Request for Information Pursuant to Section 104(e) of CERCLA regarding Chemetco, facility in Hartford, Madison County, Illinois

Dear Mr. Calvert:

The U.S. Environmental Protection Agency seeks your cooperation in providing information and documents relating to the Chemetco facility in Madison County, Illinois (Site). The Site has been listed on the National Priorities List (NPL) under the federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, commonly referred to as "CERCLA"). This is because the Site is contaminated with hazardous substances that may present a threat to human health or the environment.

The Agency believes that you possess additional information which may assist the Agency in its investigation of the Site. We received Totall's response to our Information Request of November 30, 2011 on May 4, 2012—thank you. At this time we have additional questions related to the handling and processing of materials at and between Transformit, Inc. (n.k.a. Totall) and Chemetco.

We make this request under Section 104(e) (2) CERCLA, which gives EPA the authority to assess the threats to human health and the environment posed by contaminated sites and to clean up those sites. Under CERCLA, EPA has information-gathering authority that allows the Agency to require persons and corporations to furnish information and documents. Enclosure 1 is a summary of the Agency's legal authority under CERCLA.

We encourage you to give this matter your immediate attention. Instructions to guide you in the preparation of your response are in Enclosure 2. Definitions of the terms used in this Information Request are provided in Enclosure 3. The Information Request itself is found at Enclosure 4. This request inquires into Totall's transfer of materials to both the Hartford Site as well as to warehouses owned or operated by Chemetco. You are required under law to provide a complete and truthful response to this Information Request and its questions, as well as to provide all requested documents. We request that you respond to this Request and provide

requested documentation within thirty (30) days of your receipt of this letter.

You may consider the information that EPA is requesting confidential. Under CERCLA, you may not withhold information on that basis; but you may ask EPA to treat the information as Confidential. To request that the Agency treat your information as confidential, you must follow the procedures outlined in Enclosure 5, including the requirement that you support your claim for confidentiality.

Compliance with this Information Request is mandatory. CERCLA provides that failure to answer the questions fully and truthfully and within the prescribed time frame can result in an enforcement action and penalties. Other statutes provide that the submission of false, fictitious statements or misrepresentations can result in sanctions. Additionally, EPA has the authority to use the information that it requests in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501, *et seq.*

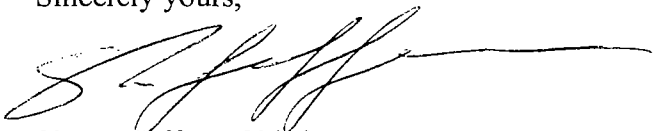
Your response to the information request should be sent back to EPA within thirty (30) days of your receipt of this letter. Your response should be sent to:

Michelle Kerr, Remedial Project Manager  
U.S. Environmental Protection Agency  
Superfund Division  
77 W. Jackson Blvd., SR-6J  
Chicago, IL 60604

If you have any legal questions, please call Thomas Martin, Associate Regional Counsel, at (312) 886-4273. If you have technical questions about this Site, or other questions, please call Michelle Kerr, Remedial Project Manager at (312) 886-8961.

We appreciate your assistance and look forward to your prompt response to this Information Request.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'S. Jaffess', with a long horizontal line extending to the right.

Sharon Jaffess, Chief  
Enforcement and Compliance Assurance Branch  
Superfund Division

Enclosures

Enclosure 1

DESCRIPTION OF LEGAL AUTHORITY

The federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, (commonly referred to as CERCLA or Superfund) gives EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site; and 3) clean up those sites.

Under Section 104(e) (2) of CERCLA, 42 U.S.C. § 9604(e) (2), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility; and
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The EPA has the authority to use the information requested in this Information Request in an administrative, civil or criminal action.

## Enclosure 2

### INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. You must supplement your response to EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA as soon as possible.
6. For any document submitted in response to a question, indicate the number of the question to which it responds.
7. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
8. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

9. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
10. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

### Enclosure 3

#### DEFINITIONS

The term *any*, as in *any documents* for example, shall mean "any and all."

The terms *document* and *documents* shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of memory generally associated with computers and data processing; and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.

The term *Chemetco* means both the Hartford Site and the warehouses owned or operated by Chemetco .

The term *hazardous material* shall mean any hazardous substances, pollutants or contaminants, and hazardous wastes, as defined below.

The terms *hazardous substance* shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.

The term *hazardous waste* shall have the same definition as that contained in Subsection 1004(5) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6903(5), and 40 C.F.R. Part 261.

The term *identify* means, with respect to a natural person, to set forth the person's full name, present or last known business address, and business telephone number; present or last known home address, and home telephone number; and present or last known job title, position, or business.

The term **identify** means, with respect to a corporation, partnership, business, trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

The term **identify** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter. The term material shall mean any substance.

The term **identify** means, with respect to a piece of real property or property interest, to provide the legal description which appears in the county property records office, or in the equivalent office which records real property transactions for the area which includes the real property in question.

The terms **includes**, or **including** shall not be construed as words of limitation; that is, they shall be construed such that the phrases "without limitation" or "but not limited to" are implied, unless such phrases are already in place. For example, "including x, y, and z" would be construed as "including without limitation x, y, and z" or as "including, but not limited to, x, y and z," but the phrase "including without limitation x, y and z" would be construed as it reads.

The term **material** or **materials** shall mean any objects, goods, substances, or matter of any kind, including scrap metal, batteries, scrap material, and electrical equipment, together with liquid or wastes contained therein.

The term **person** as used herein includes in the plural as well as the singular any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise. See Subsection 101(21) of CERCLA, 42 U.S.C. § 9601(21).

The terms **pollutant** or **contaminant** shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.

The term **property interest** means any interest in property including but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

The term **recyclable material** has the same definition as contained in 42 U.S.C. § 9627, and means scrap paper, scrap plastic, scrap glass, scrap textiles, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent batteries, as well as minor amounts of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap; except that such term shall not include:

Enclosure 4

INFORMATION REQUEST

1. Describe in detail the types of materials that you processed for Chemetco, as they arrived at your facility, their industrial sources, functions, etc. In your response, please also give the generic or common name of each type of material.
  - (a) Your initial response included a list of material types received from Chemetco for processing. Please describe any changes or updates to this list and corresponding date(s) of those updates and provide those changes.
  - (b) State whether any of the material you received from Chemetco, or any residue or byproduct created via processing of that material by you, was ever tested by your company and if so, whether the material, residue or byproduct exhibited any of the characteristics of a hazardous waste identified in 35 Illinois Administrative Code (IAC) 721, Subpart C or 40 C.F.R. § 261, Subpart C.
  - (c) Describe what was done to materials once they were brought to the Site, including how the materials were shipped to and handled at the Site, and as well as all further processing of the materials.
  - (d) Provide any additional information and all documents that you believe are related to the type, nature and characteristics of the materials you handled for Chemetco.
2. Describe the types of insulation on each type of wire you processed for Chemetco.
3. Did the material processed for Chemetco include drums, shipping containers, or other transport containers? If so, specify the generators of the drums or shipping/transport containers, the capacity of such drums or containers and whether such containers ever contained liquid of any sort. If so, specify the type of liquid and whether such liquids contained wastes of any kind.
4. Documentation provided in your initial response to EPA's Information Request indicated barrels from Chemetco were processed. Describe this aspect of your operation. How did Transformit process barrels? Did the barrels ever contain liquid or waste of any sort? If so, specify the type of liquid or wastes of any kind.
5. For each material type handled and/or processed for Chemetco at any time, what quantity was processed annually for the duration of your relationship with Chemetco?
6. What were the processing specifications or requirements that Chemetco gave to Transformit/Total/Pioneer Warehouses, Inc. for materials sent by Chemetco? Include any and all versions of such specifications.



- (a) shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substance that form an integral part of the container) contained in or adhering thereto; or
- (b) any item of material that contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable federal laws.

The term ***release*** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.

The term ***scrap metal*** shall have the same definition contained in 42 U.S.C. § 9627, and shall mean bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled, except for scrap metals that the EPA Administrator excludes from this definition by regulation.

The ***Site*** referenced in these documents shall mean the former Chemetco facility located on Illinois Route 3 in Hartford, Madison County, Illinois (See Enclosure 2). The facility address is 3754 Chemetco Lane, Hartford, Illinois, 62048.

The terms ***you*** or ***your company*** or ***Respondent*** refer not only to the addressee of this letter as it is currently named and constituted, but also to all predecessors and successors in interest of the addressee, and all subsidiaries, divisions, affiliates, and branches of the addressee and its predecessors and successors.

All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case, the statutory or regulatory definitions will apply.

The relevant time frame to which the attached Request refers is 1970 to the present.

7. Describe precisely how you handled each type of material Chemetco sent to your facility for processing.
8. Describe each technique you used to separate each type of insulation from wire and cable for Chemetco. How was the stripped or otherwise separated insulation handled at your facility, and how was it ultimately used, further processed, recycled, and/or disposed? Was wire insulation ever sent back to Chemetco? For what purpose? Describe specifically what and how much Chemetco took back after the material was processed.
9. Describe each technique you used to process circuit boards or their components (e.g. circuit board trim) for Chemetco. How was the material handled at your facility, and how was it ultimately used, further processed, recycled, and/or disposed? Was the byproduct ever sent back to Chemetco? For what purpose? Describe specifically what and how much Chemetco took back after the material was processed.
10. Did you ever process computer equipment or their components for Chemetco? If so, describe each technique you used to process computer equipment or any of its components (e.g. keyboards, monitors, hard drives, power supplies, breakage, printers, etc.) for Chemetco. How was the material handled at your facility, and how was it ultimately used, further processed, recycled, and/or disposed? Was the byproduct ever sent back to Chemetco? For what purpose? Describe specifically what and how much Chemetco took back after the material was processed.
11. For each material you processed for Chemetco,
  - (a) What byproducts or materials resulted the from processing of each type of material processed?
  - (b) How was that byproduct or material handled at your facility, and ultimately used, further processed, recycled, and/or disposed? Please provide any disposal records, including where disposal took place.
  - (c) Were all byproducts or materials that were not sent back to Chemetco after processing by Transformit disposed of, or was there some other use or disposition of the byproduct materials? If so, please describe.
  - (d) After processing, were byproduct or materials ever returned to Chemetco? If so, please describe.
12. Describe the quality control and/or quality assurance (QA/QC) measures you had in place to meet Chemetco's specifications and requirements. Did your company have its own QA/QC criteria for processing each or any of Chemetco's materials? If so, describe.

13. Did any of the material you processed for Chemetco contain other material(s) incident to or adhering to the scrap after processing? If so, describe in detail.
14. Did a supplier to Chemetco ever send materials directly to you for processing prior to sending to Chemetco? If so, which supplier(s)?
15. Did you ever send materials to Chemetco for recycling on behalf of your own or other customers?
16. Did you ever send residues or byproducts from your processing operation to Chemetco for recycling?
17. The copy of the materials processing contract between Pioneer Warehouses Inc. and Chemetco is dated 1998. Your response to questions 4 and 25 indicate a different year, as does one of the income statements you provided. Please clarify and list the years in which your company processed materials for Chemetco and/or its broker(s) for recycling, processing, sale, or disposal, with or without contract.
18. Was any batch or load of material processed by you ever refused and/or returned by Chemetco? If so, describe this event(s) in detail, including its cause and outcome.
19. Provide copies of all documents and correspondence between you and Chemetco that relates to your relationship, processing of Chemetco materials, measures you took to determine the actual means of handling and recycling of materials at Chemetco, investigation of the nature of the operations at the Chemetco site, and Chemetco's environmental compliance.
20. Provide all information in your possession that shows that you were in compliance with applicable federal environmental regulations or standards regarding the recycling of materials, particularly Section 127 of CERCLA, 42 U.S.C. § 9627, processed for the Chemetco Site. Under CERCLA, you may not withhold such information on the basis that it is confidential; but you may ask EPA to treat the information as confidential.
21. Provide all information in your possession that shows that you were in compliance with applicable federal environmental regulations or standards regarding scrap metal promulgated under the Resource Conservation and Recovery Act (RCRA). Under CERCLA, you may not withhold such information on the basis that it is confidential; but you may ask EPA to treat the information as confidential.
22. Provide all information in your possession that shows the price Chemetco paid or was paid for each of the materials processed by you.
23. Provide any additional responsive documents to EPA's original Information Request discovered as Total continued its search since May 2012.

Enclosure 5

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq.*, require that the EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.*, (December 18, 1985).) If no such claim accompanies the information when the EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA); because as stated in Section 104(e)(7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the EPA to treat the information or record as "confidential," you must advise the EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;

4. Whether the EPA or other federal agency has made pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information; and
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the EPA to obtain similar information in the future; and
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. The EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.